

## Massachusetts OHV Advisory Committee Meeting Minutes

<b>Meeting name</b>	OHV Advisory Committee Meeting (11)		
<b>Date</b>	3-6-13	<b>Time</b>	11:00 AM – 3:00 PM
<b>Location</b>	Purgatory Chasm State Reservation, Sutton, MA	<b>Meeting host</b>	Stephanie Cooper, EEA
<b>Attendees</b>			
Stephanie Cooper (EEA)	Tad Ames	Randy Toth	Sharon Jordan
Dan D’Arcy	Ken Anderson	Andrea Buglione (Mt. Grace Land Cons Trust)	Celia Riechel (EEA)
Priscilla Chapman	Colleen McGuire (DPH)	Lt. Tony Wolski (OLE)	Chris Mossman
<b>Absentees</b>			
Chief Ernest Horn	Lt. Merri Walker (OLE)	Peter Masiokas	Gary Briere (DCR)
Chris Baker (OLE)	Katie Kearney		

### Synopsis of items discussed

## **Massachusetts OHV Advisory Committee Meeting Minutes**

### **1. Welcome and introductions**

### **2. Discussion of committee membership**

A clarification of who is formally on the committee and the length of appointment is in order. When initial appointments were made to the committee, their time was staggered so that they didn't all expire at the same time. Some people were never officially appointed, which is making it difficult to determine when their appointments are over. Some members are representatives of organizations or groups that were specifically required to have representation on the committee. Eight appointments have expired since last year; one (Chris Mossman) has been reappointed through 2014. Stephanie Cooper has been in contact with the rest of the committee members, who need to send her various items (resume, bio, etc) in order for their reappointment to be processed.

Child safety advocates are specifically identified to have a representative on the committee. The appointed representative, Dr. Masiokas, has not attended any meetings. His appointment has expired and Katie Kearney has been asked to fill that role. Sue Hibbert has not yet been replaced. Does anyone have any suggestions? By statute, there could be another representative of the OHV rider community. The committee members will think about possible candidates. EEA could post an announcement of the position. Some committee members note that Chief Horne has been great when he attends, but that's not often; can he have a deputy? Others express a desire for Colleen McGuire or another DPH representative to attend more regularly, as their input is important to the work of the committee and was intended, by specific mention in the legislation, to be included.

### **3. Regulations and other updates**

Efforts to make changes for snowmobile riders' ages that needed correction from the original regulations were put off until we found whether the new legislation would pass this fall. We can move forward with those corrections now, but the process of reviewing regulations is lengthy, so it would be best if any changes that are desired are done at the same time.

The law that passed gives some limited exemptions to the requirements for rider education and registration, in response to NETRA's concerns about events that draw riders from out of state who have different requirements for registration and education. The exemption gives the Director of OLE some discretion to alter the requirements in certain circumstances. It also changes the noise requirements for riding on private or municipal tracks, or on snowmobiles made before 1985.

The committee sent a letter recommending that the OLE Director also be given some discretion in determining the best location for displaying the vehicle registration. It was in the draft, but was removed at some point in the legislative

## **Massachusetts OHV Advisory Committee Meeting Minutes**

process. Members of the committee stress that the type of registration (decal or plate) and location of its display is still an issue for some vehicle types and should be addressed. There are advantages and disadvantages to both plates and decals, side and rear locations, and what law enforcement may find most useful might not necessarily help other users interested in determining whether riders are registered. The new legislative session provides a new opportunity to address this. Stephanie Cooper will try to track bills in the legislature and flag them for the committee.

There is an exemptions document that itemizes what is eligible for exemptions, and the process for getting them. Organizations must make a formal request and submit a detailed plan. The committee discussed whether too much information is required to receive an exemption. There are some things that are still not clear. Exemptions are just for non-residents; the \$250 fine should discourage residents from just saying they live out of state. Who keeps the applications for exemption, and for how long? Simpler applications are more likely to be properly completed. A property map of where a race or event will go, along with signatures of the property owners, would ensure that there is no trespassing and would protect landowners against litigation. EEA will talk with NETRA (which was most involved in the exemptions issue) and revise the application form and send to the committee for comment.

#### **4. OLE update, Lt. Wolski (OLE)**

(The summary of OHV activity is from the Inland Bureau, from Worcester west only. Because the data comes from December through March, most of it relates to snowmobiles. The real number of verbal warnings is much higher than listed.)

There has been a significant reduction in underage riding since the passage of the OHV law and the fines went up. The compliance with the education and training requirement is not as good. Not enough people are taking the course, well below the number of children that are riding. Enforcement activities were helped by allowing some overtime hours, so that officers could patrol during the evening, when a lot of illegal riding occurs. There have continued to be OHV accidents, including two very serious accidents in the past few weeks that involved children. These involved adults taking kids out riding illegally. The OHV Fund is helping to do more outreach, but in once case it was a situation similar to other accidents, where the parents had no idea their child was riding an OHV at a friend's house. Enforcement will be aided by the 11 new officer OLE is hiring, however, six of them are simply replacing retiring officers.

What could increase people's participation in education? Fliers at riding areas and public areas like town halls, schools, OHV dealers, etc. People don't go to the police department all that often, so the booklets need to be in higher-frequented places. People take them when they're left out, they may need higher distribution.

OLE has trained local PDs to ride and enforce OHV laws, but now because of financial cuts, they can't or won't put patrols out. Most departments have sold their ATVs and just call OLE when they have a problem, which increases the burden on

## **Massachusetts OHV Advisory Committee Meeting Minutes**

OLE's over-stretched force. There could be better coordination with local police departments and they could be more represented on this committee.

The main points of contact riders have could be taken better advantage of. Every registration should include a flier on the required free educational course. If people get insurance (not many do), a flier should come with that.

There should be more effort to reach parents who don't own an OHV and don't plan to own one. There have been multiple accidents where the parents had no idea their child was riding an OHV and so didn't even think to warn them, don't think to look for information. Could there be some sort of "Don't get on OHVs" campaign at elementary schools? The American Academy of Pediatrics has a gun safety campaign that could be a model. It's the "Ask campaign," which encourages parents to ask if there is a gun in the house where their child is going. School nurses could also be contacted. Media coverage of accidents, while certainly not the most desirable method of outreach, does get the message out to a wider audience. Sharon Jordan will check the websites of organizations to which the committee sent its outreach letter, to see if they have posted information or links. Courtney Livingston from OLE did do some follow-up.

### **5. OHV Advisory Committee's mission and goals**

The law establishing the committee sought to bring a broadly representative group together to discuss the law and its implementation. The committee has been very productive so far on some issues, including implementation and education. Start-up is over, now, so it's time for a role shift. The committee can be very helpful in oversight of ongoing efforts. How can it support the implementation of the law, how can it help things improve? Big questions that remain are increasing legal riding opportunities and reducing illegal riding.

Committee members noted that while there has been good progress on improving safety, no progress has been made on improving or expanding riding opportunities. The more time passes without gains in riding opportunities, the more the whole process loses the buy-in of riders. OHV riding is legal in Massachusetts; it should be reasonably possible for people to ride legally. DCR and DFG have mandates (passive recreation and ecological protection) that make it difficult for them to provide OHV riding opportunities, but there could be some other place where people can ride OHVs safely and legally, where they won't bother others or be bothered. OHVs are a recreational use without a legal venue that is easily accessible to those in many parts of the state.

Other committee members noted that there is still much work to be done to provide education. EEA/OLE should put teeth in their outreach efforts, to make sure that the word actually gets out. It needs to make more of a proactive effort to get support from local police departments.

Some committee members commented that, at this stage, their interests lie with specific issues (eg, education and outreach; riding opportunities), and that they

## **Massachusetts OHV Advisory Committee Meeting Minutes**

might prefer to spend their time on more focused activities in subcommittees addressing those specific issues. The subcommittees could then approach the full committee and EEA with specific proposals for official action.

Some committee members are satisfied with the work the environmental police are doing on enforcement and outreach. Can the riding community make specific proposals of what it wants in a riding area?

Some would like to revisit the possibility of remote participation at meetings.

### **6. North Quabbin subcommittee update**

Andrea Buglione is working on a research project about innovation, conservation and rural economic development in the North Quabbin area and met with a number of committee members and other interested residents to discuss the possibility of developing a riding area on non-state property. There are challenges due to the ecological sensitivity of the land in the region, but there are likely some parcels that are large enough and not overly sensitive that could become an area where people can safely and legally ride. Any new area would have to comply with the Wetlands Protection Act, MESA, possibly MEPA, and any applicable local regulations. A dedicated OHV riding area would increase the safety of riding and could also provide some much-needed economic development to the region. More research needs to be completed to determine the extent of potential economic development, as well as the potential to lose some other kinds of recreational visitors. Anecdotaly, Jericho Mountain State Park (NH) and Hatfield-McCoy Trails (WV) have generated tourism-related economic development in their respective regions (Hatfield-McCoy was created by the WV legislature for this very purpose). Establishing Hatfield-McCoy may have been easier in part because the area had suffered significant ecological degradation due to strip-mining. A field trip to Jericho Mtn. SP might still be useful to better understand the process of creating a riding area.

The committee discussed the relative advantages of acquiring a property in fee, or simply purchasing trail easements. Purchasing one or two larger properties would require more money but be simpler to negotiate and faster to execute. Trail easements would be less expensive but require more negotiations with more landowners, and could result in a fragmented network if some landowners are unwilling to permit trail easements on their land. The present balance in the OHV Fund is not large and would be most effective if it could leverage other funds.

The committee considered other options for providing more riding opportunities. For example, there are a number of town roads running through state properties such as October Mountain State Forest. Towns don't want to give them up because they increase the amount of state local aid they may receive through Chapter 90; DCR might prefer that they be discontinued to minimize the fragmentation of their properties. Perhaps the state could get the towns to keep the roads but limit access—to "discontinue" them to cars—and allow OHVs on them instead. In October Mtn SF, this would solve the problem of disjointed OHV trails and effectively increase the riding opportunities provided without actually building any new trails or

## **Massachusetts OHV Advisory Committee Meeting Minutes**

opening any new areas to OHVs. Could the OHV Fund be used to endow a fund to pay towns \$XX per mile to discontinue their roads in this way?

Can the OHV Fund be used to help with liability insurance for private landowners that might like to permit OHV riding?

Committee members would like to pursue several options before committing to an action on increasing riding opportunities, considering whether proposed actions have deleterious effects on ecological values or other recreational users.

### **7. DCR update**

Stephanie Cooper has discussed the committee's concerns with DCR Commissioner Lambert, who understands that the process can be frustrating and seemingly interminable. DCR is committed to sustainable OHV riding in the state, but it is tied to a much larger, long-term reassessment of all DCR-owned lands. DCR cannot push OHV riding opportunities—just one component of this wider project—ahead of the whole. There is no update on the anticipated completion of the resource management plan for Pittsfield State Forest. DCR has no plans to close this year any areas currently open to OHVs. There may be some adjustments to the season opening if weather or local conditions require it.

The breadth of DCR's responsibility, coupled with significant staff cuts and other budget losses, makes doing anything beyond just keeping things open extremely challenging. Even keeping things open is too difficult. Rather than spreading its resources too thin and accomplishing nothing, DCR is trying to focus on a few things at a time and complete them. For now, it is focusing on the parks plan and the volunteer policy. The committee will be briefed before the siting criteria are released.

DCR wants to improve stewardship and maintenance of trails this summer. There is a vacant long-term seasonal position that it is currently trying to fill that will focus on this. They will supervise a trail crew and rangers at October Mountain and Pittsfield. \$23,000 from the OHV Fund may be used for this, or, one ranger may have to be cut, in which case the net increase in cost would be only \$4,000. The permit system will be in place again this year. DCR had spending approved for this use last year, but it did not use it.

If there aren't many riders, can the rangers be out doing some trail work as well? A ranger still has to be positioned at the entrance, so only when there are two rangers on duty at a single site could one be performing trail maintenance. The dedicated seasonal will help improve the distribution of resources so that this could be done more often.

### **8. OHV Fund update**

About \$400,000 is currently in the trails/riding opportunities fund. This year, DCR

## **Massachusetts OHV Advisory Committee Meeting Minutes**

and DFG have not spent anything from the OHV Fund. OLE has spent \$152,900. This was less than they requested; EEA reduced it in response to the committee's concerns that OLE might seek to spend on things that serve more general policing duties. OLE used the funds on staff, overtime, educational brochure printing, and some IT work to improve the registration process. No equipment or clothing was purchased using the OHV Fund. They're still working on developing an online registration capability, but they're not quite there yet.

Revenue is up 7-10% from this time last year. This is probably because we've had snow this year, so snowmobiling is possible, and, fines are being issued where last year people were just getting a warning.

We don't know what percentage of issued fines are actually collected. This is because of the issue discussed at the last meeting—that riders can appeal the fines and, in court, have them either upheld, reduced, or voided. Some court clerks are sympathetic to riders and cut the fines. What happens in court varies widely between districts. We know that \$48,000 in fines for all environmental violations has been collected; OHV fines are some subset of these.

The problem of ensuring that OHV fines that are paid go into the OHV Fund and not the general fund was also discussed previously. No significant headway has been made on it. It still isn't clear if fines that have already been paid that went to the general fund can be redirected back to the OHV Fund.

OLE does not often seize OHVs; typically it will just have them towed. Seizures might become more frequent as people get more citations. Someone with previous citations might have their OHV seized.

### **Next steps/action items**

1. Track legislative bills and highlight those of interest to the committee for input. (S. Cooper)
2. Revise application for exemption from educational and registration requirements for special events. Send to committee for comment. (EEA)
3. Check websites of organizations to which the outreach letter was sent for posting of OHV information. (Sharon Jordan)
4. Formalize subcommittees to focus on specific issues, allowing them to make specific recommendations to full committee and EEA.
5. Field trip to Jericho Mtn. State Park?
6. Determine possibility of semi-closure of town roads in October Mtn. State Forest, allowing OHVs but prohibiting cars. Determine possibility of using OHV Fund to provide some financial compensation to towns taking such action if

**Massachusetts OHV Advisory Committee  
Meeting Minutes**

closure/discontinuation reduces their Ch. 90 payments.

7. Can OHV Fund be used to help with liability insurance for private landowners who permit OHV riding? (EEA) Would this appeal to private forest owners ? (Chris Mossman will check with MFLA)
8. Figure out how to ensure that OHV fine money goes to the OHV Fund, not the general fund. Determine if previously-paid fines that went to the general fund can be recovered and placed in OHV Fund. (EEA)
9. Possible comparison between DPH accident records and OLE incident records? Possible to compare accident rates with those of other states, or with other sports/activities? (from previous meeting)

**Suggestions for Consideration**

1. Determine what legislation is necessary to allow local towns to set up a dedicated fund for OHV fines. Find an existing town to be used as a model, or create one.
2. Develop an online survey of OHV riders to get more information on who they are and what they want.

**Next meeting**

Wednesday, June 5<sup>th</sup>, 11:00am – 3:00pm

Location TBD